

SUPREME OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
TERRELL CAMPBELL,

VERIFIED COMPLAINT

Plaintiff,

Index No.

-against-

THE CITY OF NEW YORK,
COMMISSIONER RAYMOND
KELLY IN HIS OFFICIAL CAPACITY,
P.O. SANDRO CHIARLITTI,

Defendant.
-----X

Plaintiff, complaining of the defendants, by his attorneys, LESCH & LESCH, P.C.,
hereby alleges:

1. Upon information and belief, that at all times hereinafter mentioned, THE CITY OF NEW YORK, (hereinafter referred to as "CITY", was and still is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

2. Upon information and belief, that at all times hereinafter mentioned, the defendant, CITY, its agents, servants, employees and/or licensees operated, maintained and controlled NEW YORK CITY POLICE DEPARTMENT, including all the police officers thereof.

3. Upon information and belief, and at all times hereinafter mentioned, NEW YORKCITY POLICE DEPARMENT, its agents servants and employees supervised, maintained and controlled its personnel.

4. That a Notice of Claim was filed through a prior attorney of the Supreme Court, County of New York and held by the Honorable Margaret A. Chen by Order dated

12/15/14 to be timely served.

5. That more than 30 days have elapsed since the Notice of Claim and Intention to sue has been served upon the defendants and the said defendants and the said defendants have neglected or refused to make any adjustment or payment thereof, nor have they requested an oral hearing.

6. That this action is being commenced within one year and ninety days after accrual of this cause of action, or within the time allowed by law.

AS AND FOR THE FIRST CAUSE OF ACTION

7. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "6" with the same force and effect as if more fully set forth herein.

8. That on or about March 1, 2014, the plaintiff, was wrongfully and falsely arrested detained and imprisoned, without any right or grounds therefore.

9. That on or about March 1, 2014, the defendants acting within the scope and authority of their employment and office, wrongfully and falsely accused the plaintiff, **TERRELL CAMPBELL**, of a crime(s) and related offenses.

10. That on or about March 1, 2014, at approximately 11:00 P.M., located at plaintiff, **TERRELL CAMPBELL** was assaulted by Police Officers SANDRO CHIARLITTI.

11. That this action is commenced within one (1) year from the date of the assault.

12. That the said arrest and imprisonment of plaintiff, **TERRELL CAMPBELL** was caused by the said defendants, their agents, servants and employees, without legal process, without authority of the law and without any reasonable cause, or belief, that the plaintiff, **TERRELL CAMPBELL**, was in fact guilty of such crimes.

13. That the said arrest of the plaintiff herein was caused, allowed and permitted by the defendants herein, their agents, servants and/or employees, wrongfully, unlawfully, against the plaintiff's wishes, without probable or reasonable cause, and on the charges that made.

14. That defendant, their agents, servants and/or employees falsely arrested the plaintiff, compelled him to go with New York City Police officers pursuant to the instruction and will of the above named defendants, detained and imprisoned plaintiff in a New York State correctional facility, and continued to detain and imprison the plaintiff, and at other diverse places and time , including, but not limited to, prescient in the station-house in the country of Bronx, City and State of New York and Central Booking located in the Borough of Bronx, City and State of New York.

15. That the said defendants, their agents, servants and/or employees, acting within the scope of their authority and within the scope of their employment, caused the plaintiff herein to be arrested, detained and imprisoned, even though the defendants, their agents, servants and/or employees, has the opportunity to know, or should have known, that the matters hereinbefore alleged, wrongfully, unlawfully and without a sufficient charge having been made against the plaintiff, directed that the plaintiff be, arrested, search, detained and placed in confinement at said locations.

16. That as a result of the aforesaid accusations made by the said defendants, their agents, servants and employees, acting under the scope of their office and with the scope of their authority, made falsely, publicly, wickedly and maliciously, plaintiff, **TERRELL CAMPBELL**, was held in custody by members of the New York City Police Department until the accusations were "non processed" by the criminal court systems of the state of New York, County of new York.

17. That defendants, their agents, servants and/or employees, as set forth on

the aforementioned date, time and place, intended to cause the arrest, detention and imprisonment of the plaintiff herein; plaintiff was conscious of the said arrest, detention, and imprisonment; and that said arrest, detention and imprisonment was not otherwise privileged.

18. That the aforesaid occurrence, false arrest and imprisonment of the plaintiff, was caused wholly and solely by reason of the negligence of the defendants, their agents, servants and/or employees without any negligence of the part of the plaintiff herein.

19. That by reason of the aforesaid, the plaintiff was injured in mind and body, still suffers, and will continue to suffer, great physical and mental pain and anguish, has been subjected to great indignities, humiliation and ridicule; was greatly injured in his credit and circumstances; was prevented from performing and transacting his necessary affairs and business; and was incapacitated from his usual occupation.

20. That by reason of the aforesaid, the plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all lower courts which otherwise would have jurisdiction.

AND AS FOR A SECOND CAUSE OF ACTION

21. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "20", with the same force and effect as if more fully and at length set forth herein.

22. That on or about the March 4, 2014, and prior and subsequent thereto, in the County of Bronx, State of New York, the defendants, acting within the scope and authority of their office and employment, carelessly, recklessly, maliciously and negligently caused, permitted, allowed, created and instigated the prosecution, and continuing prosecution, of the plaintiff with deliberate indifference.

23. That the plaintiff was wholly innocent, and was forced by the defendants, their agents, servants and/or employees, to submit to lengthy Court proceedings.

24. That on or about the March 4, 2014 and prior and subsequent thereto, the defendants, their agents, servants and employees falsely and maliciously, without probable cause or provocation charged the plaintiff with various crimes, including felonies, misdemeanors and violations.

25. That the said prosecution, criminal charges and hearings were instituted and procured by the defendant, their agents, servants and/or employees in this action unlawfully, maliciously and without reasonable or probable cause, with actual malice and was terminated in plaintiff's favor.

26. That the aforesaid occurrence, false arrest, imprisonment of the plaintiff and malicious prosecution, was caused solely and wholly by reason of the negligence of the defendant's, their agents, servants and/or employees without any negligence on the part of the plaintiff herein.

27. That on or about June 16, 2014, the case against the defendant was dismissed.

28. That by reason of the aforesaid, the plaintiff was injured in mind and body, still suffers and, upon information and belief will continue to suffer, great indignities, humiliation and ridicule; was greatly injured to his credit and circumstances; was prevented from performing and transacting his necessary affairs and business; and was incapacitated from her usual occupations. Upon information and belief, the plaintiff has expended diverse sums of monies, in an effort to extricate himself from the imprisonment, indignities and humiliation foisted upon her by the actions of the defendants, their agents, servants and employees, including counsel fees and disbursements; and, upon information and belief, will expend further sums in that direction.

29. That by reason of the aforesaid, the plaintiff has been damaged In an amount which exceeds the jurisdictional limits of all lower courts which otherwise would have jurisdiction.

AND AS FOR A THIRD CAUSE OF ACTION

30. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "29" inclusive with the same force and effect as if more fully and at length set forth herein.

31. That the defendants, THE CITY OF NEW YORK, were careless, reckless and negligent in hiring and retaining its employees, in that the said defendants' employees lacked the experience, deportment and ability to be employed by the defendant; in that the defendants failed to exercise due care and caution in their hiring practices, and in particular, hiring the police officers involved who lacked the mental capacity and the ability to function as employees of the aforementioned defendants; in that the defendant lacked the maturity, sensibility and intelligence to be employed by the defendants; in that the defendants knew of the lack of ability, experience, deportment and maturity of said defendants' employees when they hired them to be employees; and in that the defendants, their agents, servants and employees were otherwise careless, reckless and negligent.

32. That the aforesaid occurrence, the false arrest and imprisonment, malicious prosecution, negligence in performance of duties and negligence in hiring and retention and the resulting injuries to mind therefrom, were caused wholly and solely by reason of the negligence of the defendants, their agents, servants and employees without any negligence on the part of the plaintiff.

33. That by reason of the aforesaid, the plaintiff was injured in mind and body and still suffers, and upon information and belief will continue to suffer, great mental pain; has expended and incurred diverse sums of money in an effort to extricate himself from

the indignities and ,humiliation imposed upon him by the actions of the defendants, their agents, servants and employees, including counsel fees and disbursements, and upon information and belief, will expend further sums in that direction.

34. That by the reason of the aforesaid, the plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all lower courts which otherwise would have jurisdiction.

AND AS FOR A FOURTH CAUSE OF ACTION

35. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "39" inclusive with the same force and effect as if more fully and at length set forth herein.

36. That the defendant THE CITY OF NEW YORK AND NEW YORK CITY POLICE DEPARTMENT, acting within their scope and authority of their office and employment, in their capacity as a law enforcement office, was negligent and careless in the supervision, maintenance and control of police officers under their supervision and more particularly the supervision of the members of NEW YORK CITY POLICE DEPARTMENT, in that the defendant failed to exercise due care and caution in their supervision of same and in particular causing, permitting and allowing police officers under their supervision, and more particularly the defendants' agents, servants, employees and/or licensees, to act in a careless, reckless and negligent manner without administering proper control, discipline and supervision thereby allowing police officers involved herein, to act in an unlawful and illegal manner; in causing, permitting and allowing persons within the employ of the CITY OF NEW YORK AND NEW YORK CITY POLICE DEPARTMENT, search plaintiff, **TERRELL CAMPBELL**, in that the defendants knew, or should have known, of the lack of ability, experience, deportment and maturity of the

said defendant police officers under their care, supervision and control and more particularly those police officers with a propensity to act in unlawful and illegal manner; and that said agents, servants and employees failed to properly investigate actions taken by police officers under their care, supervision and control, and were otherwise careless and negligent.

37. That the aforesaid occurrence, false arrest and imprisonment of the plaintiff, malicious prosecution, negligent performance of duties, negligent hiring and retention and negligent supervision and training, was caused solely wholly by reason of the negligence of the defendants, their agents, servants and/or employees without any negligence on the part of the plaintiff herein.

38. That by reason of the aforesaid, the plaintiff was injured in mind, still suffers and, upon information and belief will continue to suffer, great physical and mental pain and anguish, has been subjected to great indignities, humiliation and ridicule, was greatly injure in his credit and circumstances; was prevented from performing and transacting his necessary affairs and business; and was prevented to perform his usual occupation.

39. Upon information and belief, plaintiff has expended and incurred diverse sums of money in an effort to extricate himself from the indignities and humiliation imposed upon him by the actions of the defendants, their agents, servants and employees, including counsel fees and disbursements, and upon information and belief, will expend further sums in that direction.

40. That by the reason of the aforesaid, the plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all lower courts which otherwise would have jurisdiction.

AND AS FOR A FIFTH CAUSE OF ACTION

41. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "40" inclusive with the same force and effect as if more fully and at length set forth herein.

42. That on or about March 1, 2014, in the County of Bronx, State of New York, at which time and place defendants their agents, servants and/or employees and lor licensees, were acting within the scope of their employment, authority and office as part of their regular and official employment as employees for The City of New York and New York City Police Department.

43. As plaintiff was lawfully and properly enjoying his right as a citizen of the United States of America, said defendants' employees of New York City Police Department, their agents, servants and/or employees, who having the real and apparent ability to cause imminent harmful and offensive injury, and the power and authority to warrant for the arrest, detention, prosecution and imprisonment of the Plaintiff, did so threaten these acts upon the plaintiff, and did so cause the plaintiff herein to be arrested, detained, prosecuted and imprisoned, stripped and searched and in violation of plaintiff's civil rights; in ailing to recognize, detect and investigate same; in revoking the rights of the plaintiff herein; in failing to train, monitor, control and/or supervise their agents, servants and/or employees; and in prosecuting and continuing to prosecute the plaintiff.

44. That defendant, their agents, servants and employees failed to properly and adequately ascertain that plaintiff was not in violation of the law and that plaintiff was detained, prosecuted and imprisoned for an extended period of time, depriving him of his rights and liberties as set forth in the Constitutions of the United States of America and of the State of New York, handcuffed him and threatened plaintiff wit the possible use of firearms and weapons and the use of physical force; in that they continued to detain, prosecute and to imprison, the plaintiff without any conduct on the part of the plaintiff to

so warrant, to wit:

- a. in that all the actions of the defendants, their agents, servants and/or employees, acting within scope and authority of their employment and office, committed with the intention to cause economic and metal injury to the plaintiff, arrested, detained, prosecuted and imprisoned the plaintiff without his consent; plaintiff was at all times conscious of his arrest, detainment, prosecution and imprisonment did not consent to the arrest, detainment, prosecution and imprisonment; and the arrest, detainment, prosecution and imprisonment was not otherwise privileged; and
- b. the arrest, detention, prosecution and imprisonment were not justified by probable cause or other legal privilege; defendants, their agents, servants and employees, acting under the color of the statute, ordinances, regulations, customs and usages of the he United States of America, the State of New York, City of New York and County of Bronx, within the scope of their employment and under the authority of their office as employees of The New York City Police Department for said state.
- c. that the defendants, their agents, servants and/or employees, acting within the scope and authority of their office and employment, caused and unlawful arrest, detention, prosecution and imprisonment of the plaintiff thus depriving him of his freedom and civil rights as guaranteed by the Constitution of the United States of America when they in a willful, wanton, reckless, careless and negligent manner deprived the plaintiff of his due process, liberty and freedom without his consent and with the intention of causing harm and deprivation of his freedom and civil liberties, all without warrant, probable cause whatever; and,
- d. that the defendants, their agents, servants and employees failed to adequately and properly train, supervise, monitor, discipline or in any other way control the behavior and performance of police officers, their agents, servants and/or employees; that in their practices in the exercise as a police officer, their exercise of supervisory functions and their failure to enforce the laws fo the United States of America, the State and City of New York is evidence of the careless and negligent lack of cautious regard for the rights of the public including the plaintiff herein; in that they exhibited a lack of that degree of due care which prudent and reasonable individuals, and reasonable police officers would show in the execution of, and functions of the police officers; and,
- e. the failure of the defendants, their agents, servants and employees to hire, train, supervise, discipline or in any other way control the defendants, in the exercise of their functions; in that their failure to enforce the laws fo the United States of America, the State of New York and the City of New York were carried out carelessly and negligently and without regard for the consequences, so as to display a careless and negligent disregards for the dangers of harm and injury to the citizens of the United State of America, and the State and City of New York including, plaintiff; and,
- f. due to the acts of the defendants, their agents, servants and employees, and the failure of the defendants, to control, discipline, train, monitor, supervise and/or properly hire personnel under their care, supervision and control, and the continued employment of same presents a clear and

present danger to the citizens of the United States of a America and the City and State of New York; and,

- g. That the said arrest, detention, prosecution and imprisonment were instituted and procured by the defendant, their agents, servants and employees, under the scope and authority of their office and employment in this action, unlawfully, carelessly and negligently and without any reasonable or probable cause whatsoever therefor. That the commencement and/or continuation of the revocation of freedom; hearing and criminal proceedings by the said defendants against the plaintiff was without probable cause with actual malice and was ultimately terminated in favor of the plaintiff, and,
- h. that the defendants, their agents, servants and/or employees, acting within the scope and authority of their office and employment, permitted the use of policy, and or drafted policy that was violating the Constitutional rights of the above named plaintiff; and, in that each and all of the employees alleged herein were done not as individuals but under the color and pretense of the statutes, ordinances, regulations, customs and usages of the State of New York, the City of New York and the County of Bronx, and under the authority of their office as police officers for said State, City and County.

45. Defendants did not have probable cause to arrest, detain, prosecute and imprison the plaintiff before, after or at the time of this incident and deprive plaintiff of his Constitutional rights as set forth in the Constitutional rights as set forth in the Constitutions of the United States, particularly 42 U.S.c. Sec. 1983 and the Constitution of the United States of America.

46. Defendants, did not have probable cause to arrest, detain, prosecute and inpnson plaintiff before, after or at the time of this incident, and failed to properly safeguard the plaintiff's Constitutional rights as set forth in the Constitution of the United States, particularly 42 U.S.C. Sec. 1983 and the Constitution of the State of New York.

47. As a direct result of the aforesaid actions and conduct of the part of the said defendants, their agents, servants and/or employees, plaintiff was falsely arrested, detained, prosecuted and imprisoned and was compelled to be arraigned and appear in the Criminal Court system of the City and State of New York, County of Bronx and to undergo a criminal proceeding(s).

48. That at all times hereinafter mentioned, the defendants were employed in their respective capacities by the New York City Police Department and were acting within the scope and authority of their office and employment under the color of their official capacity and their acts were performed under the color of the policies, statutes, ordinances, rules and regulations of the New York City Police Department.

49. That at all times hereinafter mentioned, defendants, their agents, servants and/or employees were acting pursuant to orders and directives from defendants, and acting within the scope and authority of his/their employment and office.

50. That at all times hereinafter mentioned, defendants, their agents, servants and/or employees, were acting pursuant to orders and directives from defendants, within the scope and authority of their employment and office.

51. That at all times hereinafter mentioned, defendants, their agents, servants and/or employees, were acting pursuant to, and within the scope and authority of their employment and office.

52. That during all times hereinafter mentioned, the defendants, their agents, servants and/or employees, and each of them separately, and in concert, acted under color and pretense of law, to wit: under color of the statutes, ordinances, regulations, customs and usages of New York City Police Department and the defendants herein, separately and in concert, engaged in the reckless, careless and negligent conduct herein mentioned to the injury and detriment of the plaintiff and deprived plaintiff by the First and Fourteenth Amendments to the Constitution of the State of New York and the laws of the City and State of New York.

53. The defendants, their agents, servants and/or employees, were employed by the Police Department of the City of New York, acting under color of law, have subjected plaintiff and other persons to a pattern of conduct consisting of false arrest, detention,

prosecution and imprisonment and that said defendants, their agents, servants and/or employees did not confer due process upon the plaintiff herein, and in denied the rights, privileges and immunities guaranteed plaintiff and other citizens of the United States of America by the Constitution of the United States of America.

54. This systematic pattern of conduct consists of a large number of individual acts of violations of plaintiff's civil rights, and other citizens, by employees of New York City Police Department and more particularly the defendant employees, their agents, servants and/or employees, in acting in concert with persons unknown to the plaintiff and under color of law, and said acts, while carried out under color of law, within the scope and authority of their office and employment, having no justification or excuse in law and are instead reckless, careless and negligent, unrelated to any activity in which police officers may properly, appropriately and legally engage in the course of protecting persons or property or ensuring civil order.

55. Although defendants knew or should have known of the fact that this pattern of conduct was carried out by their agents, servants and/or employees, defendants have not taken any steps or made any efforts to halt this course of conduct, to make redress to the plaintiff or other citizens injured thereby, or to take any disciplinary action whatever against any of their employees or agents.

56. The conduct of the defendants, their agents, servants and/or employees, deprived plaintiff of the following rights, privileges and immunities secured to them the Constitution of the United States and of the State of New York:

- a. The right of plaintiff to be informed of the nature and cause of the accusation against him as secured to him under the Sixth and Fourteenth Amendments of the Constitution of the United States; and
- b. The right of plaintiff not to be deprived of life, liberty or property without due process of law, and the right to the equal protection of the laws secured by the fourteenth Amendment to the Constitution of the United States.

57. That by reason of the aforesaid negligence, false arrest and false imprisonment, malicious prosecution, negligent performance of duties, negligent hiring and retention, negligent training and supervision, and violation of civil rights caused by the defendants, their agents, servants and employees, acting within the scope and authority of their office and employment, who conspired together to enter into a nefarious scheme to wrongfully deprive the plaintiff, and compel him to abandon his rights and privileges as provided to him in the Constitution of the United States of America, and provided to him in the Constitution of the State of New York, and laws thereto, the defendants, their agents, servants and employees violated 42 U.S.C. Sec. 1983 in that the defendants, their agents, servants and employees acted as persons who under color of any statute, ordinances, regulation, custom or usage of the City of New York and the State of New York, subjected or caused to be subjected, citizens of the United States of America or other persons within the jurisdiction, particularly the plaintiff thereof to be deprived of his rights, privileges and immunities received by the Constitution and laws of the United States of America and of the State of New York; was subjected to great indignities and humiliation, and pain and distress of mind and was held up to scorn and ridicule, injured his character and reputation, was prevented from attending his usual business and vocation and was injured in his reputation in the community and the acts aforementioned were committed with the aim of injuring and damaging plaintiff.

58. That the aforesaid occurrence, false arrest and imprisonment of the plaintiff, malicious prosecution, negligent performance of duties, negligent hiring and retention, negligent supervision and training and violation of civil rights, was cause solely and wholly by reason of the negligence of the defendants, their agents, servants and/or employees without any negligence on the part of the plaintiff herein.

59. That by reason of the aforesaid, the plaintiff was injured in mind and body, still suffers, and upon information and belief, will continue to suffer great physical and mental pain and anguish; has been subjected to great indignities, humiliation and ridicule; was greatly injured in his credit and circumstances; was prevented from performing and transacting his necessary affairs and business; and he was incapacitated from his usual occupation. Upon information and belief, plaintiff has expended diverse sums of monies, and incurred debt, in an effort to extricate himself from the imprisonment, indignities and humiliation foisted upon him by the actions of the defendants, their agents, servants and employees, including counsel fees and disbursement and, upon information and belief, will expend further sums in that direction.

60. That by reason of the aforesaid, the plaintiff requests the following relief:

- a. Punitive damages in an amount which exceeds the jurisdictional limits of all lower courts which otherwise would have jurisdiction.
- b. Compensatory damages in the amount which exceeds the jurisdictional limits of all lower courts which otherwise would have jurisdiction.

WHEREFORE, plaintiff demands judgment against the defendants in an amount which exceeds the jurisdictional limits of all lower courts which otherwise would have jurisdiction on all Counts of this action, and on the County for punitive damages, and reasonable attorney's fees, together with costs and disbursements of this action and such other and further relief that this Court may deem just, proper and equitable under the circumstances.

Dated: Bronx, New York
February 20, 2015

LESCH & LESCH, P.C.

By: _____
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